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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/685,212	10/14/2003	George P. Williams	DMS2003-1	4084

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EXAMINER	
BLOUNT, ERIC	

ART UNIT	PAPER NUMBER
2612	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	**Application No.** 10/685,212	**Applicant(s)** WILLIAMS ET AL.	
	Examiner Eric M. Blount	**Art Unit** 2612	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *30 July 2007*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *7-14* is/are pending in the application.
  4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5)☐ Claim(s) _____ is/are allowed.
6)☒ Claim(s) *7-14* is/are rejected.
7)☐ Claim(s) _____ is/are objected to.
8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.
10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.
  Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
  Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  a)☐ All b)☐ Some * c)☐ None of:
    1.☐ Certified copies of the priority documents have been received.
    2.☐ Certified copies of the priority documents have been received in Application No. _____.
    3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
  * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
  Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
  Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Note To Applicant

1. Claims 7-14 are currently pending in this application. Claims 7-9 are presented for reconsideration, claim 10 is currently amended, and claims 12-14 are new.

Response to Arguments

2. Applicant's arguments filed July 30, 2007 with regards to claims 7-9 have been fully considered but they are not persuasive.

Applicants' argue that the present invention provides an audible warning system adapted to sound **only** in the event the oil pressure switch is closed with the ignition switch in the on position and the shut off switch in the off position and that the Tharman reference can not perform this function. Applicants' state in page 3 of the remarks date July 30, 2007: "The circuit shown in Tharman et al Figure 3 sounds an audible alarm immediately upon closing the engine shutoff switch regardless of whether the fluid sensor S1 is open or closed."

In response to applicant's argument that the reference fails to show certain features of applicants' invention, it is noted that the features upon which applicants rely (i.e., audible warning adapted to sound **only** in the event the oil pressure switch is closed with the ignition switch in the on position and the shut off switch in the off position) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Further, as applicants' indicated in their arguments, Tharman et al disclose that an audible alarm will sound regardless of whether the fluid sensor is open or closed. Using this teaching, the skilled artisan would recognize that in the event the ignition is in the on position, the oil pressure switch is closed, and the engine shut off switch is in the off position, an audible alarm will indeed sound. Thus, the rejection of claims 7-9 as presented in the previous official action reasonably describe and/or suggest each and every limitation of the claims as presently presented for examination. Please see the rejection below.

3. Applicant's arguments with respect to claims 10-14 have been considered but are moot in view of the new ground(s) of rejection which is necessitated by amendment.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. The factual inquiries set forth in *Graham* v. *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

6. Claims 7-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tharman et al [US 6,975,216 B2].

As for **claim 7**, Tharman discloses a warning system having:

- A battery (24, column 3, line 67);
- An ignition switch operable between and on and off condition (column 3, line 65-column 4, line 7);
- An engine shutoff switch operable between a run and off position (panic switch, column 4, lines 55-66);
- An oil pressure switch operable to close at levels of oil pressure below a predetermined level (column 3, lines 50-64));
- The warning system comprising the oil pressure switch and an alarm adapted to produce a signal in the event the oil pressure switch is closed with the ignition switch in the on position (22, column 4, lines 8-35).

Tharman does not specifically disclose an audible alarm in response to the closing of the oil pressure switch with the ignition switch in the on position and the engine shutoff switch in the off position. As shown above, Tharman discloses an ignition switch, an engine shutoff switch (panic switch), and an oil pressure switch. Referring to Figure 3, Tharman uses OR logic to determine when an alarm is sounded. Tharman shows that an alarm is sounded when the ignition switch is the on position and the engine shutoff switch (panic switch) is in the off position, or when the ignition switch is in the on position and the oil pressure switch is closed. While not explicitly shown in the Tharman reference, when the panic switch is actuated and the engine is stopped, the oil pressure will invariably drop below a minimum oil pressure. Based on the drawings in Figure 3, whether OR logic or AND logic (as claimed in the present claim) is used, the end result would be the sounding of the alarm. In other words, the open or closed state of the oil pressure switch would not change the functionality of the system. It would have been obvious to one of ordinary skill in the art at the time of the invention by the applicant to design the system based on engineering preferences. An audible alarm (audible indicator 20) is sounded when the panic switch is in the off position and the ignition switch is in the on position (column 4, line 55 – column 6, line 17). In this case, the alarm signaling the use of the panic switch is viewed as a warning that the ignition switch has been left in the on position. Obviously, the only time the panic switch would be used is when the ignition switch is in the on position.

Tharman does not specifically disclose that the warning alarm system is for use on a motorcycle. However, the use of the warning system for use on a motorcycle has not been incorporated into the body of the claim and is thus viewed as an intended use. A recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In the Tharman reference, the warning system is used to monitor the status of the engine and the oil pressure of a lawnmower or similar device. One of ordinary skill would have recognized that the warning system would have been useful on a motorcycle for monitoring the same parameters. Further, Tharman shows that a first alarm means (22) is a visual indicator. However, Tharman discloses the use of audible indicators throughout the specification. It would have been obvious to one of ordinary skill in the art at the time of the invention by the applicant to modify the invention to include an audible indication as the first alarm means based on user preferences.

Several audible indicating devices were well known and used at the time of the invention by the applicant.

As for **claim 8**, from the teachings as discussed above in the discussion of claim 7 above, one of ordinary skill in the art would have recognized that an alarm would be sounded when the engine shutoff switch (panic switch) is in the off position. Tharman discloses the use of a microprocessor (U1, logic) for processing signals. The skilled artisan would have recognized that a microprocessor comprises a plurality of logic gates. Logic gates such as AND and OR gates (as discussed in claim 7 above) are interpreted as comparators as claimed in the instant invention.

As for **claim 9**, Tharman discloses that the alarm is selected from a plurality of devices (column 3, lines 52-54).

7. As for **claim 10**, Tharman discloses a warning system having:

- A battery (24, column 3, line 67);
- An ignition switch operable between and on and off condition (column 3, line 65-column 4, line 7);
- An engine shutoff switch operable between a run and off position (panic switch, column 4, lines 55-66);
- An oil pressure switch operable to close at levels of oil pressure below a predetermined level (column 3, lines 50-64));

- The warning system comprising the oil pressure switch and an alarm adapted to produce a signal in the event the oil pressure switch is closed with the ignition switch in the on position (22, column 4, lines 8-35).

Tharman does not specifically disclose that the warning alarm system is for use on a motorcycle or that the alarm is adapted to sound under the same conditions as the oil pressure warning light is illuminated. Examiner notes that the use of the audible warning system for use on a motorcycle has not been incorporated into the body of the claim and is thus viewed as an intended use. A recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In the Tharman reference, the warning system is used to monitor the status of the engine and the oil pressure of a lawnmower or similar device. One of ordinary skill would have recognized that the warning system would have been useful on a motorcycle for monitoring the same parameters. Tharman further discloses an oil pressure warning light (22). The oil pressure warning light is operatively connected to the oil pressure switch and is illuminated when the oil pressure switch closes (Figure 2, column 4, lines 8-20). The wires and an alarm are adapted to produce an audible signal in the event the oil pressure switch is closed with the ignition switch in the on position, the alarm to be attached to the wires for the oil pressure warning light (column 4, lines 20-35). Tharman shows that a secondary alarm (audible indication) is given to alert the user in the event that the user overlooks the visual indication (column 4, lines 25-55). While Tharman discloses that the audible signal is suppressed until a user has had the opportunity to observe the visual indication, it would have been obvious to the skilled artisan to provide both the visual and audible indications at the same time and under the same conditions. This limitation is viewed as a matter of engineering/user preference. Whether simultaneous or staggered, an alert which could not be easily ignored would be provided to the user. Simultaneous visual and audible alarms were well known in the art at the time of the invention and using that type of indication would not have been beyond the scope of the skilled artisan.

As for **claim 11**, Tharman discloses that the alarm is selected from a plurality of devices (column 3, lines 52-54).

As for **claim 12**, from the teachings as discussed above in the discussion of claim 7 above, one of ordinary skill in the art would have recognized that an alarm would be sounded when the engine shutoff switch (panic switch) is in the off position. Tharman discloses the use of a microprocessor (U1, logic) for processing signals. The skilled artisan would have recognized that a microprocessor comprises a plurality of logic gates. Logic gates such as AND and OR gates (as discussed in claim 7 above) are interpreted as comparators as claimed in the instant invention. As discussed in claim 10 above, the conditions which cause an alarm are viewed as an engineering preference. Tharman discloses that the processor is capable of accepting a plurality of combinations of inputs for providing selected output conditions (column 5, lines 33-52). It would have been obvious for the skilled artisan to try different arrangements for causing the alarm to sound.

8. Claims 13 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tharman et al as applied to the claims above, and further in view of Umehara [US 6,016,006].

Regarding **claims 13 and 14**, Tharman does not specifically disclose a recorded alarm message. In an analogous art, Umehara discloses engine-monitoring device for a vehicle wherein a speech outputting circuit (200) is used to give a user instructions (column 3, lines 17). It would have been obvious to one of ordinary skill in the art at the time of the invention by the applicant to modify the invention of Tharman to include the speech outputting (recorded speech) circuit for alarm means, as taught by Umehara, because the modification would have resulted in an audible warning system capable of providing a user with precise information/instructions indicative of an alarm condition.

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric M. Blount whose telephone number is (571) 272-2973. The examiner can normally be reached on Monday-Thursday 8:00 am - 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel Wu can be reached on (571) 272-2964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Eric M. Blount
Examiner
Art Unit 2612

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Ben
BENJAMIN C. LEE
PRIMARY EXAMINER